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9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. VN-2006-1842

13 VERNON LABAUVE,
a.k.a. VERNON LABAUVE, JR.
14 a.k.a. VERNON P. LABAUVE, JR.
a.k.a. VERNON PERRY LABAUVE, JR.
15 3844 Via Del Rancho
Oceanside, CA 92056

A C C U S A T I O N

16 Vocational Nurse License No. 196264

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

- 21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
23 Nursing and Psychiatric Technicians ("Bureau"), Department of Consumer Affairs.
- 24 2. On or about August 21, 2001, the Bureau issued Vocational Nurse License
25 Number VN 196264 to Vernon LaBauve, also known as Vernon LaBauve, Jr., Vernon P.
26 LaBauve, Jr., and Vernon Perry LaBauve, Jr. ("Respondent"). Respondent's license will
27 expire on November 30, 2008, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Bureau may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Bureau may renew an expired license at any time within four years after the expiration.

5. Code section 2878.8 states, in pertinent part:

The Bureau may deny any application or may suspend or revoke any license issued under this chapter based upon the denial of licensure, suspension, restriction, or other disciplinary action of a license by another state, any other government agency, or by another California health care professional licensing board. A certified copy of the finding shall be conclusive evidence of that action. . .

6. Code section 2878 states, in pertinent part:

The Bureau may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct. . .

....

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction. . .

7. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself,

1 any other person, or the public, or to the extent that such impairs his or her ability
2 to conduct with safety to the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving possession of any narcotic or
4 dangerous drug, or the prescription, consumption, or self-administration of any of
the substances described in subdivisions (a) and (b) of this section, in which event
the record of conviction is conclusive evidence thereof. . .

5 COST RECOVERY

6 8. Code section 125.3 provides, in pertinent part, that the Bureau may request
7 the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 FIRST CAUSE FOR DISCIPLINE

11 (Disciplinary Actions by the Board of Registered Nursing)

12 9. Respondent is subject to disciplinary action pursuant to Code section
13 2878.8 on the grounds of unprofessional conduct, as defined by Code section 2878, subdivision
14 (a), in that he was disciplined by the California Board of Registered Nursing (hereinafter "the
15 Nursing Board"), as follows:

16 a. On November 14, 2002, the Nursing Board received an application for
17 registered nurse license from Respondent.

18 b. On May 21, 2004, pursuant to the Stipulated Settlement and
19 Disciplinary Order adopted by the Nursing Board as its Decision in the disciplinary proceeding
20 titled *In the Matter of the Statement of Issues Against: Vernon P. LaBauve, Jr.*, Case No.
21 2004-93, effective June 21, 2004, the Nursing Board ordered that Respondent be issued a
22 registered nursing license and that said license be automatically revoked. The revocation was
23 stayed and Respondent's license was placed on probation for five (5) years with certain terms and
24 conditions. The basis for the discipline was that Respondent suffered one conviction in the year
25 1997 for a violation of Vehicle Code section 23152(a) (driving under the influence of alcohol)
26 and another conviction in the year 2000 for a violation of Vehicle Code section 23152(a)
27 (driving under the influence of alcohol).

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1 c. On July 13, 2006, in the disciplinary proceeding titled *In the Matter of the*
2 *Petition to Revoke Probation Against: Vernon Perry LaBauve, Jr., R.N.; Registered Nurse*
3 *License No. 639095*, Case No. 2004-93, Respondent entered into a stipulated settlement
4 (Stipulated Surrender of License and Order) with a representative of the Attorney General's
5 Office for the voluntary surrender of his registered nurse license. The surrender arose from
6 Respondent's numerous violations of probation, including failing to obtain approval from the
7 Nursing Board prior to commencement of employment in a nursing position; failing to obtain
8 approval from the Nursing Board of his level of supervision at his registered nursing position;
9 failing to submit mandated probation reports on seven different occasions; failing to abstain from
10 the possession and consumption of alcohol; failing to comply with the Nursing Board's drug
11 screening program on ten different occasions; failing to provide evidence of enrolling in a
12 rehabilitation program; failing to submit evidence of attendance at weekly support group
13 meetings; and failing to comply with the Nursing Board's terms of probation. On March 6, 2007,
14 the Nursing Board adopted the Stipulated Surrender of License and Order with an effective date
15 of April 5, 2007.

16 SECOND CAUSE FOR DISCIPLINE

17 (Criminal Conviction)

18 10. Respondent is subject to disciplinary action pursuant to Code section
19 2878, subdivision (f), in that he was convicted of a crime substantially related to the
20 qualifications, functions, and duties of a licensed vocational nurse, as follows: On or about May
21 17, 2007, in the criminal proceeding titled *People v. Vernon LaBauve, Jr.* (Sup. Ct. San Diego
22 County, North County Division, 2007, No. CN227450), Respondent was convicted by the Court
23 on his plea of guilty to one misdemeanor count in violation of Vehicle Code section 23152,
24 subdivision (b) (driving while having a blood alcohol level of 0.08% or higher)¹. The incident
25 upon which the conviction is based occurred on March 22, 2007.

26
27 1. Respondent was also charged with one count in violation of Vehicle Code section 23152, subdivision (a)
28 (driving while under the influence of alcohol, prior DUI within 10 years of Vehicle Code section 23152
conviction); however, this charge was dismissed.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use of Alcoholic Beverages to an Extent**
3 **or in a Manner Dangerous or Injurious to Others)**

4 11. Respondent is subject to disciplinary action pursuant to Code
5 section 2878.5, subdivision (b), on the grounds of unprofessional conduct. On or about March
6 22, 2007, Respondent used alcoholic beverages to an extent or in a manner dangerous or
7 injurious to himself, others, and the public, as set forth in paragraph 10 above.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Conviction Related to the Consumption of Alcoholic Beverages)**

10 12. Respondent is subject to disciplinary action pursuant to Code
11 section 2878.5, subdivision (c), on the grounds of unprofessional conduct. On or about May 17,
12 2007, Respondent was convicted of a criminal offense involving the consumption of alcoholic
13 beverages, as set forth in paragraph 10 above.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Director of Consumer Affairs issue a
17 decision:

18 1. Revoking or suspending Vocational Nurse License Number VN 196264,
19 issued to Vernon LaBauve, also known as Vernon LaBauve, Jr., Vernon P. LaBauve, Jr., and
20 Vernon Perry LaBauve, Jr.;

21 2. Ordering Vernon LaBauve, also known as Vernon LaBauve, Jr., Vernon P.
22 LaBauve, Jr., and Vernon Perry LaBauve, Jr., to pay the Bureau of Vocational Nursing and
23 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
24 pursuant to Business and Professions Code section 125.3; and

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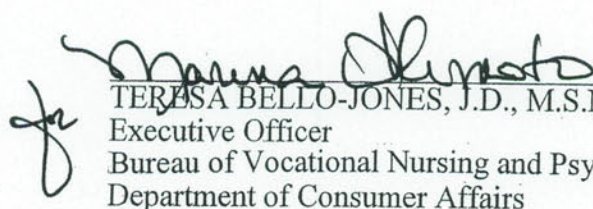
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3. Taking such other and further action as deemed necessary and proper.

DATED: July 28, 2008


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant